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09/929,242	08/13/2001	Stephen F. Gass	SDT 306	8807
27630	7590	05/16/2006	EXAMINER	
SD3, LLC 25977 S.W. Canyon Creek Road, Suite G WILSONVILLE, OR 97070			ALIE, GHASSEM	
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			3724	

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/929,242
Filing Date: August 13, 2001
Appellant(s): GASS ET AL.

**MAILED
MAY 16 2006
GROUP 3700**

David A. Fanning

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/21/06 appealing from the Office action mailed 09/22/05.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

- a. Appeal of application serial number 09/929,221 (appeal brief filed, awaiting examiner's answer).
- b. Appeal of application serial number 09/929,227 (notice of appeal filed).
- c. Appeal of application serial number 09/929,238 (notice of appeal filed).
- d. Appeal of application serial number 09/929,240 (notice of appeal 5 filed).
- e. Appeal of application serial number 09/929,425 (appeal brief filed, awaiting examiner's answer).
- f. Appeal of application serial number 09/929,426 (examiner reopened prosecution after appellant filed an appeal brief).
- g. Appeal of application serial number 10/053,390 (appeal brief filed, awaiting examiner's answer).
- h. Appeal of application serial number 10/100,211 (notice of appeal filed, awaiting examiner's answer).
- i. Appeal of application serial number 10/189,027 (appeal brief filed, awaiting examiner's answer).

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j. Appeal of application serial number 10/189,031 (notice of appeal filed, awaiting examiner answer).

k. Appeal of application serial number 10/243,042 (examiner reopened prosecution after appellant filed an appeal brief).

l. Appeal of application serial number 10/292,607 (notice of appeal filed).

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

DE 19609771	SEBASTIAN HAUER et al.	06-1998
3,858,095	FRIEMANN et al.	09-1974
4,512,224	TERAUCHI	04-1985

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foreign Document DE 19609771, hereinafter DE '771, in view of Friemann et al., U.S. Patent 3,858,095. DE '771 discloses the invention substantially as claimed including: a circular saw bench with hand recognition for retracting the blade upon detection the users hand near the saw; however, DE '771 lacks the specific detection system capable of detecting contact between the user and the blade. Friemann et al. discloses that it is old and well known in the art to sense contact between a user and a blade for the purpose of preventing injury to the user while allowing the user greater flexibility of movement of the hands around the blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modified the device of DE '771 with a contact system capable of detecting contact between the user and blade for the purpose of preventing injury to user while allowing greater flexible work around the blade.

B. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE '771 in view of Friemann as applied to claim 1 above, and further in view of Terauchi, U.S. Patent 4,512,224. The modified device of DE '771 discloses the invention substantially as claimed except for the brake mechanism configured to stop the rotation of the blade upon detection contact by the detection system, however, Terauchi discloses that it is old and well known in the art to stop the rotation of a blade while retracting the blade upon detection of an unsafe condition for the purpose of preventing damage to the blade.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to use a brake mechanism with the modified device of DE '771 in order to further prevent any damage during an unsafe condition.

(10) Response to Argument

Appellant's argument that the detection system in Friemann cannot be successfully implemented in the saw disclosed in DE' 771, since the cutting machine in DE '771 and Friemann are constructed very differently is not persuasive. DE' 771 teaches a woodworking machine including a circular blade that is retracted upon detection of the user's hand near the saw blade. DE '771 does not explicitly teach that the detection system detects contact between person and the blade or the cutting tool. It should be noted that some users prefer the rotation of the circular blade to be stopped when there is a contact between a person and the circular blade, because the user is inclined to guide or push the workpiece to the area very close to periphery of the circular saw. This enables the user to work around the periphery of the circular saw with more degree of flexibility, since the brake mechanism will not be actuated unless there is a contact between the user and the circular saw. Therefore, some of the cutting apparatus include a safety mechanism having a reaction system (or a brake mechanism) that is only activated when there is contact between a user and the blade of the cutting apparatus. In fact, Friemann teaches that the brake mechanism is actuated when there is a contact between a user and the saw blade. The safety mechanism in DE '771 can prevent severe injuries to the user when there is a contact between a user and a person. In addition, Friemann discloses that "contact" detection systems are known equivalent structures/detection systems for detection unsafe conditions for a user. Therefore, because these two detection systems were art-recognized

equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the "contact" type for the "proximity" type. Therefore, it would have been obvious to a person of ordinary skill in the art to provide DE '771 with the detecting system in Friemann in order to prevent the users from severe injuries in an alternative way that allows greater flexible work around the blade.

Appellant's argument that isolating mechanism for the contact detection system in Friemann is specifically designed for the band cutter and cannot be used with the circular saw in DE '771 is not persuasive. The isolating member isolates the band saw from an electric ground in the contact detection system in Friemann. It is well known to a person of ordinary skill in the art that a non-conductive member can be used to isolate a conductive member from electric ground. Therefore, it would have been obvious to a person of ordinary skill in the art to isolate the circular saw in DE '771 from the electric ground in many different ways that include a non-conducting member being positioned between the blade and the electric ground. In addition, the specific of the detection system has not been claimed. Claim 1 merely recites, "a detection system adapted to detect contact between a person and the cutting tool." Therefore, in this case, the location of an isolating member is not an issue.

Appellant's argument that there is no support for the motivation provided by the examiner for combining DE '771 and Friemann et al. is not persuasive. As stated above, it is well known to a person of ordinary skill in the art that if the rotation of the blade is not stopped in the cutting zone area around the blade, the degree of flexibility of working within the cutting zone of the blade will increase. As the detection system is installed

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closer to the circular saw, the working area around the periphery of the circular blade becomes larger. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modified the device of DE '771 with a contact system capable of detecting contact between the user and blade for the purpose of preventing injury to user while allowing greater flexible work around the blade.

Regarding claim 5, "the blade" should be --the cutting tool--. See claim 5, line 2. However, it is understood that "the blade" in claim 5 is a reference to the movable "cutting tool" recited in claim 1. Therefore, according to Office policy there is no issues with 35 USC § 112, second paragraph.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Ghassem Alie/GA 

April 27, 2006


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

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